G. R. S. IX-5]

Previous references.

Cts. 26-18(1-4)

Later references.

Reserve

1918-19

(Courts.)

File No. 26-18

Serial Nos. 5-17

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 5 – 17.

Part B for April 1920.

SUBJECT.

Extradition of British Subjects accused of theft of Sandalwood

---

BC 17. To the District Magistrate, Kolar.

No. G. 10612 dt 12.11.19.

Forwards the District Magistrates letter from Chittoor for information and necessary action.

WD 2233—GPB—20,000—14-6-20

G. R. S. III—1] 1918.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 26-18

FILE HEADING.

Extradition of Subbu Reddi, Intoxicated Driver and Basaforpe accused of theft under S. 379 I.P.C

From

The J. A Resident.

No. 6996 Dated 8-10-1918 Received 9-10-1918

Diary No. 8.5171.	Enclos. 1	Spare Copies.	Serial No. 5

BRIEF ABSTRACT OF LETTER.

Forwards letter No 2226 of 30-9-18 from the Govt. of Madras

NOTES AND ORDERS.

S.C. From the Dt. Magistrate, Kolar Dt.

No. C.268 Dt 7-10-1918

Requests that steps may be taken for the surrender of the accused in the Sandal wood case of Chintamani Taluk.

NOTES—First Sheet.

WD 1232—GPB—20,000—18-11-18

G. R. S. III-2.

General and Revenue Secretariat.

C/ File No. 26 of 1918.

Serial No.

1) The Government of Madras have, in their letter of the 30th ultimo stated that they are satisfied on the information of the Dt. Magistrate, Chittoor, that The offence with which the accused are charged is not the offence coming under the provision of the Mysore Forest Regulation. The offence not being extraditable, the Governor in Council does not agree to the Surrender of the accused. This letter also covers ~~compasses~~ the case of Surrender of the accused in the Sandalwood case of the Mulbagal Dalut (vide cs. file 1-18 linked up.)

Subd for orders.

80
12/10/18.

12/10/18 2) This case refers to the extradition of certain persons in British India who are alleged to have committed theft of certain sandalwood trees in Chittoor Dt. The Residency was satisfied that there was a prima facie case & the Resident accordingly issued a warrant

NOTE—Contn. sheet.

G. R. S. III-2)

General and Revenue Secretariat. | 6ts File No. 26 of 1918.

Serial No.

The accused after arrest have apparently been produced before the Magistrate, Chittur, and after [illegible] recording their statements the Magistrate has submitted the case that of Madras Mail and offence under Press Act has been committed and tried table offence. The Madras Govt have acted upon the ipse dixit [illegible] and refused to surrender the accused. The matter is an important one and cannot be dropped. If approved, the records will be called for and submitted for further action.

(vide S-88)

3) I fully agree.

68
16/11

Chief Secretary)

Joint Member)

4) I am afraid we cannot acquiesce in this. It is an important matter which cannot be allowed to rest at this stage. A further reference to the Residency is necessary & further steps will be taken to work up the case accordingly.

Dell
12.12.18

5) Draft

68
18/12

6) Draft Sorted

68
16/12

7) [illegible]

68
16/12

2108
30.11

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | Ex File No. 26 of 1918

Serial No.

7. To

The D. M. Kolar Dt.

G 11898 of 18-12-18

Requests to forward the entire records in Cr. Misc Case No 50 of 17-18 of Mulbagal ~~Chintamani~~ in C.C. No 112 of 17-18 on the file of the Assistant Magte of Chintamani.

Sec. A. 19/12/18

8. From the Dt. magte. Kolar

Ref. G 1255/17-18, 58/18-19 of 4-1-19.

Forwards the entire records in C.C. No 50 of 17 of the Assistant magte of Mulbagal & in C.C. No 112 of 17-18 of the Assistant magte of Chintamani

Encls. for orders with reference to paras 3 & 4 Endsa.

Sec. A. 19/1/19. D/ Dt. has been made out that there is a clear case of Theft of Sandalwood. It is not disputed even by the Madras Govt. The Dy Conr thought it was an offence punishable under S. 379 I.P.C.

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—S.

Serial No.

and the Hon'ble the Resident was moved for the issue of an extradition warrant. He was evidently satisfied that there was a prima facie case of theft and issued warrants for the arrest & surrender of the accused under S. 7 of the Indian Extradition Act. The Dt. Magistrate, notwithstanding the warrant, acted under S. 8 (a) of the Extradition Act and reported the case to the Madras Govt. They have concluded that the case is not an offence under the Penal code but an offence under the Mys. Forest Regulation & hence the offence is not an extraditable one.

4) The Sandal wood trees in the State are a monopoly of the Govt & even the properties of Govt. Ryots therefore the Sandalwood

NOTE—Contn. sheet.

General and Revenue Secretariat. | ~~G~~ File No. 96 of 1918.

Serial No.

have been moved with an unlawful intention the offence amounts to theft of Govt. property punishable under S. 379 I.P.C. If approved the Resy will be addressed about this aspect of the question

(10) If the Madras Govt's view is to be accepted we have to take action under S. 9 of the Extradition Act as if the offence were an non-extraditable offence. The Resy will have to be proceed for ~~this case~~ proceeding under S. 9 (vide p. 34 of manual) Then the question is now entirely for disposal by Govt. & the requisition will be dealt with as under S. 3 of the Act.

The Madras Govt. have said that they are unable to surrender the accused

(11) The Resy. may, if approved, be addressed for the matter

Going front up

NOTE—Contra. sheet.

Serial No.

for a reconsideration of the question.

Subd for orders.

SG
16/1/19

1) The evidence that was adduced before our Taluk Magtes was not, apparently, before the Madras Govt. We do not know what evidence was placed by the accused before the Dist Magte of Chittoor. It is to be presumed that the persons who were examined by the prosecution in our Courts were not placed before the Dist Magte of Chittoor.

2) As the cases are of considerable importance I would suggest that the Govt Advocate be asked to prepare a statement of our case & that the same be forwarded

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-8-18—S.

G. R. S. III-2]

General and Revenue Secretariat. | Ch File No. 26 of 1918.

Serial No.

through the Residency to the Madras Govt with a request that the matter be referred to the Madras High Court under Section 3 subsection 7 of the Extradition Act.

Chief Secy) 16.1.19

1st member

169
22.1.19

19
This may be done, the matter being treated as urgent. (More has already been done delay). A draft of the case if a draft is furnished by the Secretariat; the Asst Secy, Judl Br may do this, I think—

15) I should like to see the draft Rect. within ten days— 27-1-19

Rec'd on 1-2-19.

16) Asst Secy 27/1/19

NOTE—Contn. sheet.

WD A 1789—GPB—60.000—20-8-18—S.

G. R. S. III-2]

General and Revenue Secretariat. | Ch File No. 26 of 1918.

Serial No.

17) Forwarded with Compliments with as statements D.M. 12

Two books
(i) Manual of Hindu law
(ii) Muddiman's law of Adoption
for the Records

twice page 29/5/37

Govt Advocate)

18) A draft containing a summary of the evidence and the points necessary to meet the questions raised in this matter is sent herewith typed. If it is intended to use it for enclosure to the Residency as a communication, some alterations will have to be made.

W Shaweross
Government Advocate
13/2/19

Ch Secy
Ch

Sued
AM
B/2

19) Please send up the draft letter to the Residency D.M. 13/2

13/2/19 4-30

20) Subd. with a draft to the Resy.

86
16/2

Subd
D.M.
14/2

file this rec

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-8-18—S.

General and Revenue Secretariat. | C.S. File No. 26 of 191 8

Serial No.

22) As personally instructed by the Chief Secy. the following note is drawn up on the question of possession involved in the offence of "Theft" under S. 378 in the I.P.C. :—

(a) The term "possession" has been accepted by left undefined in the Penal code. But at the same time it is evident that it is to be used in its ordinary normal sense as denoting such lawful custody or control over a thing as entitles him to exercise some rights over it to the exclusion of others. Illustrations (g) & (k) under S. 378 I.P.C. show that the conception of possession is used in its largest sense, as implying any legal custody or control which a person may lawfully exercise over property.

The term "Possession" does not necessarily mean actual physical custody or control.

A person is deemed to be in possession of his goods not only while they are in his house or on his premises or under his control, but also when they are temporarily out of his control, as in the case of cattle sent out to graze on common land. A person may have

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—S.

General and Revenue Secretariat. | C/ File No. 26 of 1918.

Serial No.

money or ornaments in his own land or in the land of another, but he still maintains his possession of them so long as he retains his control over them. The only possession that the law does protect is the possession of a thief, that is to say, such possession the maintenance of which may in itself lead to private vengeance and breach of peace.

Mayne's Hindu Law of India pp: 261, 1708, and 1717.

In applying these principles to the present case there seems to be no doubt in holding that all sandal trees in the State are to be deemed to be in the possession of the Govt. whether they are standing on occupied or unoccupied lands. As soon as they are cut and removed dishonestly by any person whether the offence of theft becomes complete, and in the present case it is clear that the accused persons had no right to wantonly cut & remove the trees standing on My own territory.

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—S.

G. R. S. III-2]

General and Revenue Secretariat. | File No. 46 of 1916

Serial No.

Kind reference is also invited to a recent case decided by the Calcutta High Court in which it has been held that — where by the terms of the Kabuliat it was provided that if the tenant cut any trees, he would pay to the landlord compensation at a certain rate and it was found that the tenant malafide cut some trees in order to injure the landlord — the tenant committed theft by severing the trees from the ground, as they were in the possession of the landlord. In the body of the judgt by Mitter and Chatterjee the following observations are made:—

"It is clear from explanation 1 to section 378 I.P.C. that as soon as a tree is severed in order to the taking thereof, theft is committed".

"No trees cannot be dealt with by the tenants without the permission of the landlord ..... They are wholly and solely in the possession of the landlord & it was theft to sever them from the ground, apart from any question of possession of the land itself". ×.

Calcutta Law Journal vol: XXVII, no: 4, pp. 228, 229.

×. 76: W.

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—S.

G. R. S. III-2]

General and Revenue Secretariat. | G | File No. 26 of 191 18

Serial No.

25) Forwarded No with compliments to the Govt Advocate for favours of opinion

B. O.
Mahadewappa
for Chief Secy to Govt
22/2/19

C.60.
To morrow Sunday
will be sent at 11 Am.
to the G.A. for reply to me
D.M.
22/2

C.O. No. 53-18
Protection
& 24.2.19.

26) I have appended a Supplementary note to my previous note & pressing details of opinion on the points raised.

No. Ag 79/18-9
26/2/19'15

Undersecy to Govt Advocate
26/2/19.

BEN. CHIEF SECY'S OFFICE
Ch Secy's Cell
25 FEB 1919
59838

27) Subd for orders
(Chief Secy)
D.M.
25/2

28) Subd with revised draft as directed. The Govt Advocate has also revised the Sh.
D.M.
26/2

(Chief Secy)
1st member

5-73
27.2.19

27/2/19

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—S.

G. R. S. III-2]

General and Revenue Secretariat.

F. File No. 26 of 191 8.-19

Serial No.

29) I have recast the draft so as not to affect the susceptibility of the Mussalmans [illegible] more than can be helped. [illegible] They may not like being told in so many words that their conclusion is based upon imperfect material both as to facts & law! [illegible]

30) The matter being important, the revised draft may be submitted to the Secretary also. [illegible] 4-3-19.

can't you put up.

Secretary

5032 3-3-19.

31) The draft is suitable and may be submitted to H.E. for approval [illegible]

32) Secretary [illegible] 4.3

Please submit draft letter to Government of India Home Department

33) Draft letter submitted [illegible]

34) Submitted with D.F.N. and D.S.N.

35) Draft letter approved D.F.N. as revised. [illegible]

36) Typed copy is put up.

37) Draft letter D.F.N. and D.S.N. [illegible]

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—S.

G. R. S. III-2]

General and Revenue Secretariat.

File No. 26 of 1918-9.

Serial No.

728
11.3.19

38) D. Fr. submitted for approval
1st member
Cdr 10/3/19
D.M. 11/3

a slight error
12.3.19
40 Subs with D.S.W.
Chief Secy
D.M. 12/3

41) D. Fr. submitted
Secy
11
20 3
42)
Cdr 18/3/19
D.M. 18/3

5-5-19.
19-3-19

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—S.

G. R. S. III-2]

General and Revenue Secretariat. | C/5 File No. 26 of 1918.

Serial No.	
9	From the Dt. Magistrate Kolar Ref. J.C. 573 dt. 1-3-1918 Requests early order of Govt. in the matter of the surrender of the accused implicated in the Sandalwood theft cases of Mulbagal & Chintamani 43) Submitted with a draft to the Dt. Magte. Kolar 8/7 7/3. Apl 7β 44) Issued D.M. 9/3
10	The D. M. Kolar G 21093 dt. 2-3-18 State the details of the surrender of certain persons accused of theft of Sandalwood in the Taluks of Mulbagal and Chintamani is awaiting the allotment of Govt.

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—5.

FINAL NOTE BY THE FIRST MEMBER OF COUNCIL.

SUBJECT:

Extradition of British subjects accused of theft of sandalwood.

---

45) *The District Magistrate of Kolar applied for the surrender, under the Extradition Act, of certain persons accused of having committed theft of sandalwood in the taluks of Chintamani and Mulbagal Kolar District. The Hon'ble the Resident, who was addressed in the matter, was satisfied that a primâ facie case was made out against the accused, and accordingly issued extradition warrants (dated 31st July 1918 and 10th August 1918 respectively) to the District Magistrate of Chittoor, for the surrender of the accused persons to the Mysore Police.*

46) *2. The District Magistrate of Chittoor, however, recorded the statements of the accused persons, admitted them to bail, and reported the case to the Government of Madras under Section 8 (a) of the Indian Extradition Act, 1903. On this information the Government of Madras have refused to surrender the accused for the reason that "the offence with which the accused are charged is not theft but one of failure to comply with a Forest Regulation of the Mysore State not in force in British India".*

47) *3. If the above conclusion of the Madras Government be not challenged and a reversal thereof obtained, there will be little check over the illicit traffic in sandalwood across the Mysore border. Having regard therefore to the great importance of the case as it affects the sandalwood revenue of the State, the Government Advocate was asked to examine the case and prepare a statement. which he has now furnished. It will be seen that in his opinion there are strong primâ facie grounds to show that the accused persons*

persons have committed offences punishable under Sections 379 and 411, Indian Penal Code, and extraditable under the Extradition Act.

48)

Draft for approval

4. A draft letter to the Residency has accordingly been prepared requesting that the Government of Madras may be moved to kindly reconsider their decision.

49)

5. The draft may be graciously approved.

12th March 1919.

MEMBER OF COUNCIL.

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

57) Draft letter to the Residency in the matter of extradition of certain persons accused of theft of sandalwood.

961.

52) *Order.*

21/3/19

53) Chief secy 22/3

54) Secy 22/3/19

55) Pharmacist to say
26/3

Submitted to His Highness.

I submit herewith a Final Note by the First *Member of Council on the subject of* extradition of certain persons accused of theft of sandalwood,

.....

for His Highness' gracious approval.

Dewan.

20. 3 19

G. R. S. III-2)

General and Revenue Secretariat. | File No. 26 of 1918.

Serial No.	
	Do
11	The F.A.R Pol 971 of 27-3-19 ~~Extract~~ Statements of the facts of the case re the Sandalwood theft in Chintamani and subsequent Petition for the reconsideration of the Madras Government for the surrender of the accused persons
	55) Srlied. with a draft reminder as per orders in the Sus Cases.
	24.56) May the reminder to the Resy issue?
	Chief Secy)
	X The F.A. Resident No 829 22-7-19 Invites reference to the above and requests to be informed when a reply may be expected.

NOTE—Contn. sheet.

G. R. S. III-2j

General and Revenue Secretariat.

C/S File No. 26 of 1918.

Serial No.	
12.	From Dy. C. S. Resident 5867 & 26—7—1919 Forwards copy of letter & 15-7-19 from the Govt. of Madras stating that they have no objection to the Surrender of the accused and state that necessary orders have been issued for the Surrender of the accused 57) Submd. with a draft for the Dy. Comptr., Kolar. Other con- nected file or any perhaps be submitted 28/7 the Draft acknowledging Resy.'s letter is also put up for approval or other orders. 30/7/19. 58) Draft duly to the Resident acknowledging the receipt of the enclosed is put up being an important matter in which the Govt. have revised their former decision. may be approved 60) Issue or submit to 61) 2nd member for perusal

A draft acknowledging the Resy. com. may also be put up.
for 30.7

Issue draft letter to the Dy. Comptr, Kolar
21/7

ISSUE & RESUBMIT

NOTE—Contn. sheet.

General and Revenue Secretariat. | 665 File No. 26 of 1918.

Serial No. 13

2

The D. m. Kolar

no. G. 3682 & 13. 8. 19

States that the Madras Govt having been pleased to agree to the surrender of the accused the Hon'ble the Resident has issued the necessary warrants to the D. m of Chittor for the surrender of the persons concerned

14

2

The A. A. Resident no 1778 & 16. 8. 19

acknowledges the endorsement no 5-8 (6) & 26. 7. 19 forwarding copy of letter no 1602 & 15th July 1919 from the Madras Govt

62) Submitted with reference to para 61 supra

Pone 15/8
Hon'ble 15/8

II Member
Dewan

63) Subd for perusal as ordered

D. m. 16/8

Wh 24/8

D. m. 22/8

85 18-8-19

DEWAN'S OFFICE.
Recd. on AUG 23 1919
Reg. No. 1301

64) I think the words of the reference to whether the persons who have received their former sentence should be returned to H-H for completion

Seen
25-8-19

65) Please put up D. m.

CSR 26/8/19 By 2 p. m.
to. move Chittor

D. m. 26/8

NOTE—Contn. sheet.

26/8

G. R. S. III-2]

General and Revenue Secretariat.

C/- File No. 28 of 1918.

Serial No.

DEWAN'S OFFICE.
Recd. on SEP 1 1919
Reg. No. 1461

(66) Sealed with a D. S. 1

8G 27/8/19. Chief Secy (67) D. M. 2/9

Dewan 66 C/M 28/8/19 D. M. 2/9

NOTE—Contn. sheet.

Page 20 of Office Notes

Submitted to His Highness.

69) The draft letter to the Residency requesting that the Government of Madras may be moved to reconsider their decision in the matter of the surrender of certain persons accused of theft of sandalwood in the Kolar District, was graciously approved by His Highness on 21st March 1919. On that reference, His Excellency the Governor of Madras in Council has been pleased to reconsider his former decision and has agreed to the surrender of the accused persons.

2. The Residency communication in the matter is submitted for His Highness' gracious information.

22nd Sept-1919 Venkatarangiah

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Residency communication in the matter of the surrender of certain persons accused of theft of sandalwood in the Kolar District.

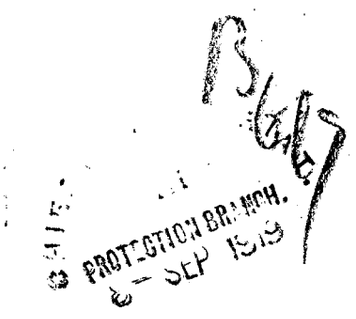
329.

Order.

20) ~~KRW~~
4/9/19

21) Ch. Leg
5.9.19

D.M. 6/9



G. R. S. III-2]

General and Revenue Secretariat. | C5 File No. 26 of 1918.

Serial No.	
15.	From F. A Resident Letter no. 6854 dt 6th Sep 19. Forwards for information. Letter no 5301 dt 19th Aug 19 from the Dt. Magte. Chittoor to F.A. Resident in Mysore Stating that three of the Warrantees, Sampangi Ramayya, Rayannagari Sra & Thimmaiyan were arrested & sent under forspr escort to Mulbagal & three more were not yet arrested. 72) Submitted with a draft to the Dt. Magte, Kolar. 73) Issue D. M. 1829 KR 12/9/19. Appd 15/9
16.	Forward the above copy to the District Magistrate Kolar. No. G. 7881. dt 24th September 19[illegible]. Forwards copy of letter no 5301/19 dt 19. 8. 19 from the Dt Magte, Chittoor
17	From the F. A. Resident in Mysore No. 8380. dt the 30th Oct- 1919 Forwards for information Letter no R.O.C 5301 dt the 22nd Oct- 1919, from the Dt. Magte Chittoor to the F. A Resident in Mysore Stating that 2 of the three referred to above were Surrendered before the Amildar Magistrate, Chintamani on the 19th Sept and the third to be being traced out.

Jas Bz 21/10

28 OCT 1919

NOTE—Contn. sheet.

G. R. S. III-2)

General and Revenue Secretariat. | Ch File No. 26 of 1918.

Serial No.	
74)	Submitted with a draft letter to the District Magistrate Kolar Dist.
	Kb 24-11-19. Asst 3/11
75)	D. M. 2/11
17	To The District Magistrate, Kolar. No. G. 10612 Dy. 12th November 19. Forwards the District Magistrate's letter from Chittoor for information & necessary action.
76)	Recd. The file was kept in Sec B 2 in the belief that a further reference regarding the third accused referred to would be recd soon from the Dist. As no such reference has been received hitherto, the file will be closed. Asst 3/12
77)	D. M. 6/12

Sec B 2 12/11/19 PROTECTION BR. 20 NOV 1919

B K 1.4 CENTRAL 12 APR 1920

NOTE—Contn. sheet.

In the Court of the Assistant Collector & Magistrate of Mulabagal.

Criminal Misc. Case No: 501(1)18.

Complainant
Govt. Vs.

Accused
1. Sampangi Ramesh
2. Eera
3. Thimmesh

In this case, although 14 witnesses have been examined for the prosecution we need be concerned with only those witnesses who were present at the scene of occurrence (the evening of 5th December 19) i.e. Sampangi Village. They are the main crime of the sandalwood trees and one Ramanna Gopalakrishna Gowda below the Sampangi tank had been cut and removed having the topped off branches behind. This was brought to the notice of Srinivasa Rao, the

Patel of the village (10 D.W.), who inspected the land & reported the occurrence to the Police as well as to the Amildar on 7.12.[19]17

The Forest Range officer (D.W.13), who informed of this on 11.12.17 by the Amildar, also at once proceeded to the village. After careful inspection he found that 11 sandal trees had been cut & removed from Govle's waste and occupied land & that Y. Gopalia's land was one of the occupied assessed lands from which two sandal trees were found cut & removed, and he drew up a Mahazar according to the requests of the Forest officer & the investigation of the cases was then taken up by the Police Inspector (D.W.12) under the orders of the H.S.P. on receiving information that the stolen sandal trees

had been concealed in Gandaraj'apally,

Palamaner Taluq in the Chittoor district,

the Police Insp^r & the For: Ranger

officer proceeded to the said village

after taking in Sub-Insp^r of Panjani

also with them. Acting on the information

contained in a pseudonymous petition

from addressed to the District Excise Office

they searched, in the presence of the panch-

nayatdars, the mango garden, haystack,

and manure heaps of the 1st & 3rd accused

and found the following: —

(1) Sandal chips under a mango tree

in the 1st accused's mango garden

& in a dried-up pond close by;

(2) 4 sandal billets, one of which

contained a hollow right through

in the centre, in the 3rd accused's

manure heap;

(3) 120 sandal pieces (of which 8 were

green & the rest dry) in a manure heap

in the 1st accused's backyard.

These articles were seized & taken possession
of by the British Sub-Inspector after
they were impressed with the Mysore Forest
Dept Stamp & the Forest Range Officers
seal. Thereupon the party including
the Daingai Sub-Inspector returned to
Kanyli, and on company, in the presence
of the panchayetdars, the above sandal
pieces with the stumps of trees they
were found to correspond with each
other. The Daingai Sub-Inspector
took these articles to proceed them
before the Taluq Magistrate of Dummanoor
in whose custody they are left now
now. ~~He is produced~~ The evidence of
prosecution 1, 2, 3, 7, 8, 9 & 11 shows that
the 1st & 2nd accused removed the
~~articles~~ sandal pieces from the
Mysore State into British territory
~~and~~ and arranged to convert
4 sandal pieces into billets. The
1st & 3rd accused are stated to be
the residents of Gundarajapalli & the

2nd accused of Royalpet in the Punjaion Taluq, and all the three accused persons are said to have absconded according to the evidences of the Police Inspector (12 P.W.) & the British Sub-Inspector's docket of 28th March 1918 (Exhibit P.).

II. In the Court of the Assistant Magistrate of Chintamani:-

Criml case no: 120 / 1917-18.

Crown by Govt.

Accused

vs:

1. Subbareddy
2. Kuppasamy naidu
3. Basappa

In this case three have been examined for the prosecution. The following facts are established by the evidence:- On 25-11-1917 the Amildar of Chintamani received a petition in which it was

alleged that one Karaseah of Yemmalpad
and Mallareddy of Madanahally
Taluq had cut & removed 50 sandal
trees from the Chintamani Taluq & that
the trees alleged had been stocked in
Mallireddy's house for being
transported to Dumanoor. This petition
was referred to the Sheristadar for
confidential enquiry, & upon who
proceeded to Yemmalpad & examined
the Ryots regd in the petition with the shanbhogue & patel
present & making a panchanama inspection.
He found that nearly 20 sandal
trees had been cut & removed from
occupied
S. nos: 133, 134 & 234, standing in the
name of the said Mallareddy & owned & cultivated
by Jonab Savoey nos: 124 & 138, and a
mahazir was accordingly drawn up.
On 1.12.17 the Forest Range Officer
of Srinivasapur received a telegram
from the District Forest officer about
the theft of sandal trees and
to Yemmalpad. & on a careful
inspection he found that a large number
of sandal trees were missing in S. nos:

1234, 132, 134, 135, 138 & 234. & that there were standing crops of paddy in some of the occupied lands. ~~On the spot~~ The case was then taken up by the Police & the investigation was conducted under orders of the A.S.P. The P.C. Inspector & the Forest Ranger successfully traced the sandal trees to Dunganoor & Dalmanee. After proper identification they seized the sandal billets & took them to Gemunal-paddy where they were compared with the stumps & found to agree. Thereupon, the 1st & 2nd ~~accused & accused~~ accused were arrested with the co-operation of the British Police & necessary arrangements made for the arrest of the 3rd accused who had absconded.

There is sufficient reliable evidence to show that the accused persons ~~were engaged~~ engaged there ~~in the sandal trees~~ cut the sandal trees, sawn them to convert them into billets in Dunganoor territory & ~~were~~ carted them to B. Dadoo for the purposes of illicit sale ~~selling them~~.

111

It is established by the evidence on record in both the cases that the accused were in possession of and were also dealing with the stolen property, & hence there is an irresistible inference that the accused obtained it by theft. All the essentials necessary to constitute the offence under S. 378 of the I.P.C. are present in these cases, and the offence of theft became complete as soon as the cash was severed and dishonestly removed by the accused. None of the authority is needed to support the correctness of this proposition than Illustration (a) to S. 378 I.P.C. which is exactly applicable to the facts of these cases

Again, the conduct of the accused in having absconded from their village has to be taken as an unmistakable proof of their guilt. A strong prima facie case has been made out against the accused persons in both cases in the interests of justice they ought to be handed over to take their trial. It is hardly necessary to add that Sandalwood is a State monopoly & properly therein vests absolutely in the Mysore Govt. Any attempt to illicitly remove it from there during the pendency of the enquiry will be looked upon in the same light as other undesirable instances of like nature & will be dealt with by the Govt. who are powerless to stop

such like armed attack
is sure to encourage unscrupulous
persons & dishonest
merchants in Mysore & Kadra
to continue to commit
such similar depredations &
carry on their illicit trade
with impunity.

I beg to be added that
Mysore Police had no opportunity
to place all his evidence before
the District Magistrate of Chittoor
so as to prove possible trial &c was
not aware of the existence of
the same at the time when he
made an reference to the Local
Govt under S. 8 A of the Indian
Extradition Act. This accordingly

his said Magistrate

provision was inserted by the Indian Extradition Act, I of 1903 the only material that the Magistrate would have to ascertain under this section would be the statements of the accused person, who are not bound to state the truth, and it is understood that this power should not be exercised except under special circumstances which apparently do not exist in the present instance.

vide Law of Extradition in British India by A.P. Mukerjee (1914) p. 3)

D.M.
12/19

G. R. S. III-2]

General and Revenue Secretariat. | Ch File No. 216 of 1918.

Serial No.

R. O. 178. (a)—R. P. B.—7-1918.—1,000.

Chief 9.10.18

MYSORE RESIDENT'S OFFICE,
Bangalore, 8th October 1918.

DIARY No. 6754

I.V.L.W. 460 9.10.18

No. 6996

A copy of the marginally* noted letter, ~~with enclosure~~, is forwarded to the Chief Secretary to the Govt. of H.H. the Maharaja of Mysore, for information with reference to his letters Nos. 96 dated 26.7.18 and 147 dated 6.8.18.

*No. 2226 dated 30.9.18 from the Govt. of Madras

H. S. James

First Assistant Resident.

JCM

NOTE—Contn. sheet.

Letter No. 2226, dated the 30th September 1918, from the Secretary to the Government of Madras, Home (Judicial) Department, Ootacamund, to the Hon'ble the Resident in Mysore.

---:0:---

I am directed to invite a reference to Mr. James' letters to the District Magistrate, Chittoor, Nos. 5295 and 5580, dated the 31st July and 10th August 1918, respectively, regarding the surrender of certain British subjects charged with the theft of sandalwood from the Mysore State. The Governor in Council is satisfied, on the information furnished by the District Magistrate, that the offence with which the accused are charged is not theft, but one of failure to comply with a forest regulation of the Mysore State not in force in British India. As the offence is thus not extraditable under the first schedule to the Indian Extradition Act, 1903. I am to say that His Excellency in Council is unable to surrender the - - warantees or to put them on trial before a British Court. Orders are being issued to the District Magistrate accordingly.

---:0:---

"C O P Y"

R E G I S T R A R.

CHIEF SECRETARIAT
PROT
11 OCT 1918

1918-19

From 12364

The District Magistrate,
Kolar District.

To

The Chief Secretary,
Government of Mysore,
Bangalore.

Dated 7-10-18

Despatched 7-10-18

General No. C. 2 [illegible]

Enclosure. 2

9 -OCT 1918

Requesting to take steps for the surrender of the accused in the sandal wood case of Chintamani Taluk.

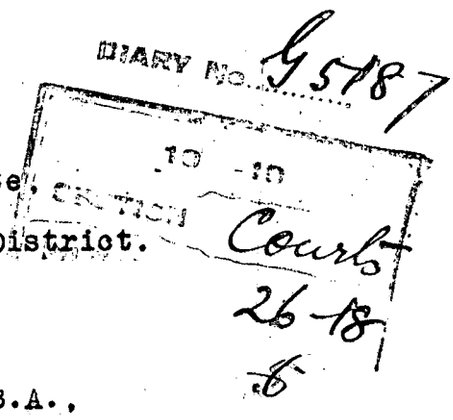
District Magistrate's Office,

No.C. Kolar District,

Dated Ooregaum, the 7th October 1918.

From

B. Venkoba Rao, Esq., B.A.,
District Magistrate,
Kolar District.



To

C. S. Balasundaram Iyer, Esq., B.A.,
Chief Secretary to the Government
of Mysore, Bangalore.

Sir,

With reference to your letter No.G.2840 /cts 26-18-4 dated the 8th August 1918, intimating that the Hon'ble the British -- Resident has ordered certain accused persons concerned in a Sandalwood theft case to be surrendered to the Chintamani Taluk Police, I have the honour ~~to~~ to submit herewith an extract from the report of the District Superintendent of Police, Kolar dated 5th October 1918, bringing to notice that two of the three accused are admitted to bail by the British authorities without surrendering them to the Mysore Police in obedience to the orders of the Hon'ble the Resident and that a reference has been made by them to the Local Government under Section 8 (a) of the Indian Extradition Act, with a view to secure the trial of the accused in the Chittoor Courts, and to request you to kindly take action to have the accused persons surrendered to the Mysore Police, without further delay, as already ordered by the Hon'ble British Resident.

I have the honour to be,

Sir,

Your most obedient servant,

B. Venkoba Rao

District Magistrate,
Kolar District.

Memo No. 198 dated 5th October 1918 from the District Superintendent of Police, Kolar, to the District Magistrate, Kolar District.

The marginally noted accused persons concerned in a case of theft of Sandalwood from the Government lands within the limits of Nangli village in the Mulbagal Taluk were ordered by the Hon'ble the British Resident in Mysore, to be surrendered to the Inspector of the Mulbagal Taluk at Mulbagal. X X X X X

The Inspector of Mulbagal reports that the District Magistrate of Chittoor before whom the accused persons ~~were~~ arrested under the Extradion Warrant were produced, has ~~submitted~~ admitted them to bail instead of surrendering them to the Mulbagal Police as per directions of the Hon'ble the British Resident and has made a reference to the Local Government under Section 8 (a) of the Indian Extradition Act.

X X X

The District Superintendent of Police, Chittoor District who was addressed in the matter, states in his letter of the 13th September last (Copy enclosed for ready reference) that the District Magistrate at Chittoor has taken a similar step in respect of the three & accused persons concerned in the theft of sandal trees from Government lands within the limits of the Venumalepadi village, in the Chintamani Taluk. These accused had also been ordered to be surrendered by the Hon'ble the Resident. (Vide-Chief Secretary's letter No.G.2840/Cts 26-18-4 dated 8th August 1918).

& Subba Reddy
Basappa
Kuppusamy.

"Extract"

B Sivaba Rao

District Magistrate,

Kolar District.

Letter No.R.C. 1627 and 1704/ Genl. of 18 from the Superintendent of Police, Chittoor, to the District Superintendent of Police, Kolar.

----------:----------

With reference to your ~~xxxxx~~ Mis No.139 of 1918 dated 10th September 1918, I have the honour to state that of the three accused concerned in Chintamani theft case Nos. ~~&~~ 1 and 2 Subbareddi and Andala Basappa surrendered themselves before the District Magistrate, Chittoor and have been admitted to bail. The other accused Kuppusamy Naidu was arrested by the Punganur Police and produced before the District Magistrate on the 24th August 1918. Their cases have been reported to the Local Government under Section 8 (a) of the Indian Extradition Act.

2. The warrants against the three accused concerned in Mulbagal Sandal theft case have been sent to the Inspector of Police, Punganur, and they are pending execution.

"Copy"

B Sankara Rao

District Magistrate,

Kolar District.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

Section 25
File No. 26-18
Serial No. 7

GENERAL AND REVENUE SECRETARIAT

( )

, the *191* .

No. G 11898

Date of issue 18/12/18

To

The Dt. Magistrate
Kolar Dt.

Signed by W. Z. S. [illegible]

Sir

With reference to your letter Nos. C. 267 and C. 268 dt. 7-10-1918 requesting to take action for the surrender of the accused in the Sandal-wood cases of the Malagal & Chintamani Taluks, I am directed

over.

17/12

to request you to forward at your early date the entire records of criminal misc case no. 500 of 17-18 on the file of the Assistant magistrate of Mallappal & in criminal case no. 112 of 17-18 on the file of the Assistant magistrate of the Chittarmani Bank respectively.

I have etc.

for Collector

List of enclosures.

Copied by

Examined by

W D—G I B—60,000—15-11-18

CSO
REC 2678
SERIAL 8

District Magistrate's Office,
Kolar District,

Dated Kolar, the 4th January 1919.

RDgC 1255/1728/58/809

From

B. Venkoba Rao, Esquire., B.A.,
District Magistrate, Kolar District.

To

C. S. Balasundaram Iyer, Esquire., B.A.,
Chief Secretary to the Government of Mysore,
BANGALORE.

Sir,

With reference to your letter No.G.11898/Cts.26-18-7 dated 18th December 1918, I have the honor to forward herewith the entire records in Criminal Miscellaneous case No.50 of 1917-18 on the file of the Amildar Magistrate of the Mulbagal Taluk and in --- Criminal case No.112 of 1917-18 on the file of the Amildar Magistrate of the Chintamani Taluk.

I have the honor to be,
S i r,
Your most obedient servant,

B. Venkoba Rao
District Magistrate,
Kolar District.

WD 0452—GPB—8,00,000—21-7-17—S.

191

From 2081

The District Magistrate,
Kolar District.

To

The Chief Secretary to the
Government of Mysore,
Bangalore.

Dated 4th January 1919.

Despatched

Received

General No.

No.

Enclosure No.

Submitting records in Sandal wood cases of the Chintamani and Mulbagal -- Taluks with application for the surrender of the accused persons concerned.

District Magistrate's Office,
Kolar District,
Dated Kolar, the 27th February 1919.

From

B. VENKOBA RAO, Esquire., B.A.,
District Magistrate, Kolar District.

To

C. S. BALASUNDARAM IYER, Esquire., B.A.,
Chief Secretary to the Government of Mysore,
B A N G A L O R E.

Sir,

In continuation of my letter No.Ref.J.C.1255/17-18 and 58 of 1918-19 dated forwarding certain Criminal records relating to -- cases of theft of Sandalwood from the limits of Mulbagal and Chintamani Taluks, I have the honor to forward herewith copy of letter No.419/18-19 dated 12th February 1919, with copy of its enclosure, from the District Superintendent of Police, Kolar, and to request that, under the circumstances represented in the letter, orders of Government may be kindly obtained in the matter at a very early date.

I further beg to state that if the Government think it necessary, the cases referred to above against the accused persons whose surrender has been ordered by the Hon'ble the Resident in Mysore, can be arranged to be tried by the Special Magistrate, Kolar Gold Field or other First Class Magistrate.

I have the honor to be,
S i r,
Your most obedient servant,

B Venkoba Rao

District Magistrate,
Kolar District.

WD C[illegible]—GPB—3,00,000—21-7-17—S.

191

From

The District Magistrate,
Kolar District.

No. S.411

To

The Chief Secretary to the
Government of Mysore,
Bangalore.

Dated 27th February 1919.

Despatched

Received

General No.

No.

Enclosure No.

Requesting to obtain the orders of Government in the matter of theft of Sandalwood from the limits of Nimvagal and Vimtamani Palais.

Letter No.419/18-19 dated 7/12th February 1919, from the District Superintendent of Police, Kolar District, to the -- District Magistrate, Kolar District.

In forwarding herewith copy of letter Crime No.23 dated 23rd January 1919, received from the Sheristedar Magistrate of Palamanair, Chittoor District, stating that the Sandalwood -- seized by the Chintamani Police and deposited with the Village Magistrate, Palamanair, was losing weight every day due to dry-age, I have the honor to urge, that you will be so good as to address the Government again, to move the Hon'ble the Resident, to surrender the accused persons concerned in the Yanumalapady Sandalwood theft case, to the Inspector of Police, Chintamani, at an early date, in order to arrest the further deterioration of the Sandalwood billats, the Corpus delecti, in the case, from natural causes and to bring the offenders to justice.

I beg also to urge, that prompt measures in the case seem very necessary to prevent similar surreptitious removal of sandal-wood, from the State Forest across the border, to the British territory.

"C o p y"

District Magistrate,
Kolar District.

SUBJECT:- Sandalwood case

Crime No.23 of 1918.

Station:--Palamaner, Dated the 23rd January 1919.

From

(Name) M.R.Ry. N. R. Krishnaswamiayyar,

(Designation) Sheristedar and 2nd Class Magistrate.

To

The Superintendent of Police,

K o l a r.

Sir,

I have the honour to invite your kind attention to your letter G.O. No.300 dated 9th December 1918, received in reply to my crime No.23 of 1918, and to state that the sandalwood therein referred to is unnecessarily lying here without further action on the part of the Mysore Police. There was already a deficiency of $2\frac{1}{2}$ maunds in weight of the wood which the Village Magistrate of Palamaner in whose charge the billots etc. remained attributes to dryage. I request that necessary action may be taken at a very early convenience.

I have the honour to be,

Sir,

Your most obedient servant,

(Sd.) N. R. Krishnasamayyar,

Sheristedar and 2nd Class Magistrate.

"C o p y"

District Magistrate,
Kolar District.

G. R. S. V1—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to .....

Section C5
File No. 9b 18
Serial No. 10

GENERAL AND REVENUE SECRETARIAT
( )
, *the* *191* .

No. C 21097

Date of issue 22.3.09

Signed by M.S. Oom.

To

The Dt. magistrate
Kolar.

Sir,

With reference to
your letter no Ref J. C
573 of 1-3-1909 requesting
early orders in the matter
of the surrender of certain
persons accused of
theft of sandalwood
in the Dalukas of
Mulbagal & Chintamani

over.

I am directed to state that the matter is engaging the attention of the Govt.

I have etc

D.W. 9/3

for Chief Secy

EGT
7/3.
AM-
7)

List of enclosures.

Copied by

Examined by

W.L. —G.P.B.—(C.)(C.C.)—15-11-16

To

The First Assistant to the
Hon'ble the Resident in Mysore.

S i r,

I am directed to invite a reference to your endorsement No. 6996 dated 8th October 1918 forwarding copy of letter No. 2226 dated 30th September 1918 from the Secretary to the Government of Madras, Judicial Department, regarding the surrender of certain British Subjects charged with the theft of sandalwood in the Mysore State.

2. The view expressed by the Madras Government, that the offence with which the accused are charged is not theft, but one of failure to comply with a Forest Regulation not in force in British India, is stated to be based on information furnished by the District Magistrate of Chittoor. But as Section 8 A of the Indian Extradition Act, under which the Dist: Magistrate must have acted, does not provide for any enquiry being made beyond the mere statement of the accused himself, it is possible that the full circumstances may not have been available to him to be placed before His Excellency the Governor in Council.

3. Having regard to the great importance of the case as it affects the sandalwood revenue of the State, the Durbar have had the case examined by their Law Officers.

From the statement prepared by them, of which a copy ~~has been~~ is enclosed, it will be seen that strong prima facie grounds exist for holding in both the instances referred to that the accused persons have committed offences punishable under Sections 379 and 411 I.P.C. and extraditable under the first Schedule of the Extradition Act.

As the Hon'ble the Resident is aware,

4. Sandalwood under the Mysore Law is a State monopoly; and any clandestine removal thereof necessarily amounts to theft under the Indian Penal Code, and not merely to an evasion of a Forest Regulation. There is every reason tobelieve that illicit traffic in sandalwood is being carried on on a considerable scale, in a more or less organised form, causing great loss of revenue to the Durbar. The Durbar are therefore anxious that this class of offences should be put down as far as possible and that offenders should not have an easy loophole of escape. It may be added that in the cases under reference there is evidence to show that the sandal trees must have been cut and removed from Government land as well as from private holdings.

5. In the light of the information now furnished, the Durbar venture to express the hope that the Hon'ble the Resident will be pleased to move the Madras Government to kindly reconsider their decision in the matter and to direct the surrender of the accused persons to the Mysore Police in accordance with the warrants already

issued.

I have etc,

Chief Secretary to Govt.

Statement of the case -

D R A F T.

The facts of the case against the accused 1. Sampangi-Ramaiya, 2. Thimma, & 3. Eara, disclosed by the evidence - recorded by the Amildar & 2nd Class Magistrate of Mulbagal Kolar District, in the inquiry held by him in Criminal Miscellaneous Case No. 50 of 1917-18, are that one Thaniga -- (P.W. 5), Nirganti of Nangli Village, observed on a certain evening, about three months prior to his examination (24-3-18) that a Sandal Tree had been cut and the Tree had been - removed leaving the branches behind, in the land of one Gopalachar. Thaniga reported this matter to Srinivasa Rao (P. W. 10) Patel of the Nangli Village, who after inspecting the spot and satisfying himself that a Sandal tree 3½ feet in - girth had been cut and removed, reported the occurrence to - the Police as also to the Taluk Amildar on the 7th December.

P.W. 13, Mr. Shankaranarayanappa, Forest Range Officer, swears that he learnt from the Amildar about the theft of - Sandal tree on the 11th December 1917, that he went to the spot and found that 11 trees were missing in Government -- waste land and also in occupied lands. He got a mahazar - drawn up, regarding what he observed. The land of Vanalam-Gopalachar was one of the occupied lands in which 2 Sandal -

trees

trees had been cut. He reported this matter to the District Forest Officer & to the Police Superintendent on the 15th - idem. On the former's requisition to the Police to investigate the matter, the investigation of the case was taken up by P.W. 12, the Police Inspector of the Taluk, under the -- orders of the District Superintendent of Police. On information received that the stolen sandal pieces had been secreted in Gaudarajapalli, (Palamaner Taluk of the Chittor District) the Police Inspector & Forest Ranger (P.Ws. 12 & 13) proceeded to Panjani and took the Police Sub Inspector of - the place with them to Gaudarajapalli. By that time a -- pseudonymous petition which had been received by the District Forest Officer had also been sent to the Forest Ranger (P.W.13) and this disclosed the places where the stolen sandal pieces were suspected to have been secreted. Acting on this clue, these Officers searched, in the presence of Panchayatdars, the Mango Garden, field, hay stack and back-yard of the 1st accused Sampangi Ramaiya, where the following -- suspicious articles were found:—

(1). Sandal chips under a mango tree in the 1st accused's Mango Garden.

(2) 4 Sandal billets one of which was hollow in the 3ri

3rd accused's manure heap collected in 1st accused's - field.

(3) 8 green and 4 dry sandal billets in a manure heap belonging to the 1st accused and his brother Kondappa near their cattle shed.

All these were seized and taken possession of by the Panjani Sub Inspector after they were impressed with the stamp - of the Mysore Forest Department.

On the 18th idem, all these Officers proceeded to Nangli - with the sandal billets and there in the presence of Panchayatdars on comparing the sandal pieces one after another with the stumps of sandal trees, it was found that one of the 4 billets found in the manure heap of the 3rd accused tallied with the stump of one of the 2 trees cut in Gopalayya's land not only in respect of the size and shape of the hollow but also in respect of the rings found on the billet and stump. This important circumstance has been proved by the evidence of P.Ws 10, 12 & 13. The stump so compared was handed over to the - Patel (P.W. 10) who produced it before the Mulbagal Taluk -- Magistrate, before whom it was identified by these witnesses during their examination. The sandal pieces seized and taken possession of by the Sub Inspector of Panjani have been pro-

produced before the Taluk Magistrate of Panjanur.

The evidence of P.Ws 12 & 13 regarding the tracing of the sandal chips and billets to the possession of accused 1 & 2 has been corroborated by the evidence of P.W. 14, - Sivaramaiya who is the Karanam or Shanbhogue of Gaudarajapalli.

The connection of the accused with the offence of theft of sandal-wood from the village in question is further established very satisfactorily by the evidence of the remaining 9 witnesses examined in the case.

P.W. 4, Muniga, a Nirganti of Nangli swears that a few days prior to the alleged disappearance of sandal trees, he saw the - 1st accused and one Rayalpete Thimmayya and another standing on the bank of the channel below the Nangli Tank when Thimmaiya - enquired whether the land close by, on which some sandal trees stood was Government land or a private holding and adds that - he heard of the alleged theft of sandal trees about 8 days after this conversation.

P.W. 6 Venkatappa, an old acquaintance of the 1st accused has deposed that the latter who met him in Nangli Shandy, about a week prior to the occurrence, asked him to cut some sandal - trees for him or to secure the services of coolies for the pur-

purpose.

P.W. 7, Annaiya, a friend of the 2nd accused swears - that about 15 days before he heard of the theft of sandal trees in his village, the 2nd accused took him to a garden behind the Nangli Tank and asked him to help him (2nd accused) in felling sandal trees.

P.W. 9, Chinnappa Reddy deposes to having been engaged for wages, for cutting and removing some sandal trees from Gopalacahr's land near Nangli Tank by accused 1 & 2 and to his having helped the accused and someothers in sawing a - sandal tree and in removing two sandal billets from that field to a bridge near the frontier boundary stone. He - further speaks to the 1st accused, when asked about his - right to the sandal trees, having explained that he had purchased them from the owner thereof.

P.W. 11, Ganga, corroborates him in almost all the particulars.

P.W. 8, Ramadu also corroborates P.Ws. 9 & 11 regarding the felling of the sandal tree and removal of billets.

P.W. 2, Obligadu, speaks to the fact that the 1st -- accused engaged his cart for hire and instructed him to - take the cart to the frontier boundary stone and that ac-

accordingly when he took the cart there, the 1st accused and 2 others whom he could identify (one of them had a cycle) - brought from beneath the bridge, and placed in his cart, 2 logs of sandal-wood which were taken to a mango grove in Gaudaraja-palli where they were kept under a mango tree.

P.W. 3, Rama Reddy, corroborates P.W. 2 in some particulars and he says that he saw accused 1 & 2 of whom the latter was -- holding a cycle near the bridge where he saw two logs; that on - enquiry, the 1st accused said that the logs were of a neem tree, that feeling suspicious he examined them and found them to be - sandal pieces and that on further enquiry he was told that the accused had purchased them and had obtained licenses for their trnasport from both the Mysore & the British Authorities.

P.W. 1, Mallappa, speaks to the 1st accused having taken him as a cooly to his Mango garden, where he saw 4 sandal logs which at the bidding of the 1st accused, he dressed and prepar-ed into billets and that one of the billets had a hollow which he said he could identify.

From the circumstances set forth above, it is clear that a very strong prima facie case of theft under section 379 I.P.C. has been made out against the 2 accused persons referred to above.

The facts of the case against 1. Subba Reddy, 2. -- Kuppusami Naidu & 3. Basappa, as disclosed by the evidence recorded by the Amildar and 3rd Class Magistrate of Chintamani, in Criminal Case No. 112/17-18 on his file are as follows:-

On 25-11-17, the then Amildar of Chintamani Taluk received a pseudonymous petition in which it was alleged that Komati Narasaiya of Yenumalepadi and Malla Reddy of Kanukamakanpalli had felled and removed 50 sandal trees and secreted the same in the latter's house and that there was danger of the property being smuggled into His Majesty's territories. This petition was referred to P.W. 6, Sheikdar of Mangmahalli Hobli for enquiry and report. On receiving the same on 27-11-17, the Sheikdar proceeded to Yenumalpadi and on inspection of the spot on 28-11-17 -- found that a large number of sandal trees had been cut & removed from some lands in the Khate of Malla Reddy (father of 1st accused) and some Gomal lands and the branches -- thereof left behind. On enquiries made he learnt that Narsaiya referred to in the petition had absconded. Thereupon he submitted a report to the Amildar mentioning all these facts.

On

On 1-12-1917, P.W. 11, Mr. Shankar Naranappa, Forest Range Officer, received a telegram from the District Forest Officer re: theft of sandal trees instructing him to investigate the matter. P.W. 11 went to the Amildar of Chintamani, obtained from him the papers relating to the case submitted by the -- Sheikdar, repaired to the scene of occurrence, where, on inspection on 4-12-1917, he found that 42 trees had been stolen of which 23 appeared to have been cut within a month and 19 - somewhat earlier. He got a Mahazir prepared embodying all - that was observed by him and the Panchayatdars he had taken with him. Thereafter he reported the matter to the District Forest Officer who placed the ~~matter~~ case in the hands of the Police for further investigation, which was conducted by the Police - Inspector (P.W. 1) in collaboration with the Forest Range Officer (P.W. 11).

The former sent for Narsaiya (P.W. 5) against whom there was some suspicion and examined him. This person, whose evidence - discloses that he was an accomplice in the commission of the - theft in question, made a clear brest of the whole affair. Having learnt from this witness that the Madras Forest Officers were enquiring into the smuggling of sandal-wood, P.Ws. 11&5 proceeded to Palmaner where they found 4 cart loads of sandal billets

billets out of which about 40 billets appeared to be Mysore sandal-wood. On pursuing this matter further, they were - able to trace several pieces of sandal-wood to the possession of the 2nd accused of which 28 pieces were identified by P.W. 11 as Mysore sandal-wood. These 68 billets were removed to Yenumalpadi where on comparison with the stumps of the missing trees, it was found that the heart-wood of 4 or 5 of the -- billets corresponded with the stumps.

In the preliminary enquiry held, 11 witnesses have been examined. P.W. 6, Sheikdar Thimmarayappa, P.W. 11, Range -- Forest Officer & P.W. 2 Police Inspector speak to the details of investigation set forth above.

Komati Narsaiya (P.W. 5) referred to above is the most - important witness in the case and gives the details of the - occurrence. He speaks to having been present when the 1st - accused Subba Reddy got the trees felled at an unusual hour - of night, had them prepared into billets ~~and~~ packed them and sold them in 2 instalments to the other 2 accused, 2 &3 who eventually got them carted at night to Pungalur. He adds -- that he too took part in this matter and travelled with accused 2 & 3 and brought the balance of price thereof Rs. 60/-

(the

(the total price being Rs. 110/-) and paid the same to the 1st accused. He also speaks to the fact that at Punganur, a dispute having arisen between one Kodandia (P.W. 3) a dealer in sandal-wood and accused 2 & 3, a settlement was effected under which 2/3 of the sandal-wood was given to the 2nd accused and the remaining 1/3 which fell to the share of the 3rd -- accused was given to P.W. 3 in adjustment of the latter's -- claim of Rs. 25/- against the former advanced for supply of sandal-wood. This witness identifies the billets as those prepared from the trees felled and removed from the lands referred to above.

P.W. 5, Narsaiya's version regarding his showing the sandal trees to the 3rd accused in the 1st instance is corroborated by P.W. 8, Hassan Sab, P.W. 7, Papiga & P.W. 10, Babu, swear - that they worked as coolies at night and took part in cutting and removing sandal-wood trees at the instance of the 1st - accused and to this extent they corroborate ~~the~~ P.W. 5's version.

P.W. 9, Syed Sab speaks to having seen the bark of some - sandal ~~pieces~~ logs being removed near a hut in the backyard of 1st accused's house.

P.W. 3, Kodanimaiya & P.W. 2, Arunachalamudaliar corroborate P.W. 5 in regard to the quarrels between accused 2 & 3 -

over

over the sandal pieces and the panchayat and settlement - that followed.

P.W. 4, Mohammad Hussain, while corroborating P.Ws 5, 2 & 3 on the question of the Panchayati and settlement, also speaks to having cut to pieces some sandal-wood trees with a view to facilitate packing in bags and adds that the - trees in question were still green. He says he did so for wages under the instructions of the 2nd accused.

From the above summary, it will be seen that a clear case of theft of sandal trees has been made out against -- the 1st accused Subba Reddy and a case of receiving stolen property, knowing it to be stolen, against the 2nd & 3rd - accused. The small price of Rs. 110/- for which one cart load of sandal pieces was purchased, the transport of the same under suspicious circumstances at night and many -- other points referred to in the evidence of the witnesses - clearly prove the dishonest intention of the accused per- sons in dealing with Mysore sandal-wood.

A strong prima facie case has thus been made out against the 1st accused for an offence under section 379, I,P.C., and against accused 2 & 3 for an offence under section 411 I.P.C

From the summary of the evidence recorded in the two cases under reference it is clear that the accused persons have committed offences under sections 379 & - 411 of the Indian Penal Code, which are Extradition - offences under the 1st schedule of the Extradition Act.

Both the Mysore Durbar and the Residency were -- satisfied that a prima facie case was made out against the accused and the Hon'ble the Resident was accordingly pleased to issue an Extradition warrant for the arrest of the accused. Some of the accused persons surrendered themselves, and some others were arrested & - produced, before the District Magistrate of Chittor, - who, evidently after recording their statements, admitted them to bail and submitted the case to Government - of Madras for orders, under section 8 (a) of the Indian Extradition Act. on the ground that the offence the -- accused were charged with was not theft but one of failure to comply with the Mysore Forest Regulation not in force in British India and which was not an Extraditable offence.

On this information furnished by the District Magistrate, His Excellency the Governor in Council refused to

to surrender the warrantees to the Mysore Durbar, or even to put them on trial before a British Court.

Section 8 (a) of the Indian Extradition Act, which is only a recent addition to the Act, does not provide for - any enquiry by the DistrictMagistrate but only authorises him to record the statements of the accused. As such the only material that would be available in a case of this - kind, for the Magistrate to act upon, is the statement of the accused, and such powers should be sparingly used only in special circumstances.

It is not likely that the learned District Magistrate of Chittor had the materials the Mysore Durbar or the -- Resident had before them and it may therefore be presumed that he has acted only on the statements of the accused.

Under section 72 of the Forest Regulation all sandal trees in Mysore are the exclusive property of Government and such trees must therefore be deemed to be in the possession of Government, irrespective of the place where they are found. In fact even the owner of the land on which they - stand would be guilty of theft if he removed them with a - view to profit himself thereby.

It may be that such an act amounts to an offence - under the Forest Regulation. But it amounts to an offence under the Penal Code also; and section 58 of the Mysore - Forest Regulation (corresponding to section 54 of the -- Madras Forest Act V of 1882) clearly lays down that such a person may be dealt with under any other provision of - law which imposes a higher penalty or punishment than -- that provided by the Regulation or the Rules thereunder. So there is clear authority for cases of theft of sandal wood being dealt with under the Penal Code.

Therefore the moment a person cuts down a sandal -- tree any where in the Mysore State, with the intention of dishonestly taking the tree out of the possession of a - person who is entitled to it without his consent (and in this case it is the Government) and the tree is severed for the purposes of removal, the offence of theft is complete (vide section 378 I.P.C., Expln. (1) & illustration (a).

Even leaving out of account the absolute ownership - of the Government of Mysore in such trees, by overlooking the provisions of section 72 of the Forest Regulation, -

the

the removal of such valuable wood with the intention of - causing wrongful gain to oneself makes such an act dishonest (vide section 24 I.P.C.) and an offence under section 379 must be deemed to have been committed.

We have, besides, materials enough in both the cases under reference to show that sandal trees have been cut & removed not only from private holdings but also from Government land.

Therefore, even irrespective of section 72, the acts in question amount to Extraditable offences.

The cases under consideration have some special features about them. The offences have been committed by the accused who are residing on the Mysore Frontier and the extent of the devastation committed is enormous, involving property thousands of rupees in value. The stolen property has been removed out of the Mysore Territories at dead of night and the evidence recorded clearly shows that this clandestine traffic has been going on, on a very large scale, in a more or less organised form. There are indications that advances are made for the supply of sandal-wood, by persons residing in the adjoining British Taluks, that there are men who are doing this

this business of collecting sandal-wood as a profession and that coolies are readily available to fell the trees, to - dress and convert them into billets.

The loss to the Mysore Durbar on this account is - very large and unless such depradations are put down, - with a high hand, there is every danger of the interests of the Durbar in regard to its sandal revenues being - seriously affected.

Under these circumstances, it is requested that - His Excellency the Governor of Fort St. George in Council may be moved to reconsider the decision under reference and that His Excellency may be pleased to direct - the surrender of the accused to the Mysore Police, in - accordance with the warrants already issued by the Hon'ble the British Resident.

Government Advocate

MYSORE RESIDENT'S OFFICE,

Bangalore, 26th July 1919.

No. 5847/Income. 1889

Ch Secy, Pol

25.28

A copy of the marginally* noted letter, ~~with enclosure,~~ is forwarded with compliments to the Chief Secretary to the Government of His Highness the Maharaja of Mysore, for information with reference to the correspondence ending with his letter No. Pol.971, dated the 27th March 1919.

*No. 1602 dated the 15th July 1919. from the Government of Madras Home, (Judicial) Department.

2. The necessary warrants have been issued for the surrender of the accused.

First Assistant Resident.

I.S.

R. O. 178 (a).—R. P. B.—4-1919.—1,000.

Letter No. 1602, dated the 15th July 1919, from the Secretary to the Government of Madras, Home (Judicial) Department, to the Hon'ble the Resident in Mysore, Bangalore.

****

With reference to your letter No. A 2868, dated the 10th April 1919, regarding the surrender of certain British subjects charged with the theft of Sandalwood in the Mysore State, I am directed to state that the Governor in Council on further consideration of the matter has no objection to the surrender of the persons concerned. As, however, orders have once been issued refusing the surrender of these persons and such orders have already been acted upon and the warrants issued for the arrest of the accused are therefore no longer in operation, I am to suggest that fresh warrants, which should clearly and fully state the offence as now explained by the Durbar, may be prepared and application made to the District Magistrate, Chittoor, under section 7 of the Indian Extradition Act, 1903, for the surrender of the accused.

****

COPY

REGISTRAR

Resident's Office.

G. R. S. VI—G/32]

ISSUE & RESUBMIT

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT

( )

, the *191*

Date of issue 12/8

Signed by

In continuation of this Office no G 21093 dy 22.3.19 re the CS 2618-10

Section C5

File No. 24-78

Serial No. 13

No. G 8682 Records

To

The Dr. ~~Secretary~~, Madras

Sir,

~~Reference to the~~ ~~question of~~ extradition of certain British Subjects charged with the offence of theft of Sandalwood from the limits of Mallapuram and Chintamani, I am directed to state that the Madras Govt having been pleased to agree to the

over.

surrender of the accused,
& Gordon the Provost-
has issued warrants
warrants to the Bl. marshl.
of Brixton for the surrender
of the persons so named.
2. The records received with
your letter No A.G. 12 51-
17418
of 4-1-1919 are herewith
returned.

I have etc.

31/1

for Chief Secy.

List of enclosures.

Copied by

Examined

G. R. S. VI—G/32]

ISSUE & RESUBMIT.

SUBJECT.....

.....

Diary No. of letter replied to.....

Section cs

File No. 26-78

Serial No. 14

GENERAL AND REVENUE SECRETARIAT

( )

, the 191 .

No. Pol 177

Date of issue 14th August 19

To

Signed by Jn. C. S. B. Iyer

The T. A. Resident

Sir,

I am directed to acknowledge, with thanks, your endorsement No 5847 D. 26-7-19 forwarding a copy of letter no: 1602 D/15-16 July from the Madras Govt. agreeing to the surrender of certain persons charged with the offence of Illicit Sandalwood in the State,

and intimating the issue of the necessary warrants for their surrender

for

I have etc

R. S. 12]

General and Revenue Secretariat.	File No.	of 191
Serial No.		

Encls

Pol 323

MYSORE RESIDENT'S OFFICE,

Bangalore, 6th September 1919

No. 6854.

A copy of the marginally* noted letter, with enclosure, is forwarded with compliments to the Chief Secretary to the Government of His Highness the Maharaja of Mysore, for information, with reference to the correspondence ending with his letter No. Pol.177, dated the 14th August 1919

*No. 5301 dated the 19th August 1919. from the District Magistrate, Chittoor.

For *First Assistant Resident*

I.S.

R. O. 178 (a).—R. P. B.—4-1919.—1,000.

NOTE—Contn. sheet.

GPB—20,000—30-6-15.

Letter No. 5301 of '19, dated the 19th August 1919, from the District Magistrate, Chittoor, to the First Assistant to the Resident in Mysore, Bangalore.

****

I have the honour to refer you to your letters Nos. 5848 and 5849, dated the 26th July 1919, enclosing extradition warrants for the surrender of Sampangi Ramayya and five others.

2. Three of the warrantees, Sampangi Ramayya, Rayannagari Era and Timmayya have been arrested and were sent under proper escort to Mulbagal to be handed over to the Police Inspector there on the 14th and 16th instant.

3. The other three warrantees have not yet been arrested.

****

COPY

REGISTRAR

Resident's Office.

I.S.

G. R. S. VI—G/32]

SUBJECT Forwards Copy of the letter no 5301 of 19 from the Dt. Magte of Chittoor through the Residency to the Dt. Magistrate of Kolar.

Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT
( )
the 191

Section Ch.
File No. 26-18
Serial No. 15

No.

Date of issue 24/9

Signed by.. Mr Pl...

Here enter letter no 5301 of 19 of the 19th Aug 19, from the District Magte, Chittoor, to the F. A. Resident.

Memo. G 7851

Copy of the above is forwarded, with Compliments, to the Dt Magte, Kolar Dist. in Continuation of this Office no. G. 3682 of 13-8-19 for information and necessary action.
Ch 26-18-13

By order.

24/9/19

19 Per Chief Sec

G. R S. III-2]

General and Revenue Secretariat. | Ch File No. 26 of 1918.

Serial No.

Rol 560

MYSORE RESIDENT'S OFFICE,

Bangalore, 30th October 1919 No. 7025

GEN. & REV. SEC'T.
Ch Section
3 OCT 1919 Ch
No. 8380
Cmd

19 1920
SECTION Ch
FILE No. 26-18

A copy of the marginally* noted letter, ~~with enclosures~~, is forwarded with compliments to the Chief Secretary to the Govt of Mysore, for information in continuation of endorsement No. 6854, dated the 6th September 1919, from this office.

*No. 5301, dated the 22nd October 1919 from the District Magistrate of Chitoor

Roc

5 26-18-15
Subs
28/10

For First Assistant Resident.

R. O. 178. (a).—R. P. B.—8-1919.—2,000.

SECTION BRANCH
31 OCT 1919 Ch

NOTE—Contn. sheet.

Letter R.O.C. No.5301, dated the 22nd October 1919, from the District Magistrate of CHITTOOR, to the First Assistant to the Resident in MYSORE:--

* * * * * * * * *

I have the honour to refer you to my letter No. 5301 of 1919 dated the 19th August 1919, relating to the execution of the extradition warrants issued by the Resident in Mysore for the - - surrender of Sampangi Ramayya and five other persons.

2. Out of the three warrantees referred to in para 3 of my letter quoted above, 2 (namely Basappa alias Andali Basappa and Kuppuswami Nayudu) are reported to have surrendered before the Amildar Magistrate, Chintamani on 19th September 1919, I am - - therefore returning the warrants issued for their arrest.

3. There is yet one man, Subba Reddi whose warrant is pending execution. The Police are making every effort to - - trace him, but have not yet succeeded.

* * * * * * * * * * *

"C O P Y"

R E G I S T R A R,

RESIDENT'S OFFICE.

S.V.

G. R. S. V1—G/32]

SUBJECT..... Forwards the Dist magts letter from Chittoor
..... himself the Residency to the Dt magte Kolar
..... for information .....

Diary No. of letter replied to... 10 25

Section C6
File No. 26—18
Serial No. 17 C

GENERAL AND REVENUE SECRETARIAT
( )
, *the* 191 .

No.

Date of issue..... 12/11

To

Signed by..... M^r Rice

Here enter letter no. R.O.C. no 5301 of the 22nd Oct 19, from the District Magistrate of Chittoor to the First Assistant Resident in Mysore

memorandum no. G 1080

Copy of the above is forwarded, with Compliments, to the District Magistrate Kolar, in Confirmation of this Office memo: no G. 7885/C6 26-18-16, for information & necessary action

By order

for Chief Secretary

25/10/19
Asst
3/4